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In re Application of :
Seymor Benzer et al :
Serial No.: 09/895,141 : PETITION DECISION
Filed: June 29, 2001 :
Attorney Docket No.: CITI560-1 :

This is in response to the petition under 37 CFR 1.181, filed February 8, 2005, for withdrawal of abandonment of the above identified application based on premature abandonment.

A review of the file history shows that the examiner mailed an Office action to applicants on October 7, 2004, setting a one month time period for reply. The examiner mailed a Notice of Abandonment to applicants on November 26, 2004, with an interview summary stating that the time period for reply had expired. However, the action mailed October 7, 2004, specifically states that extensions of time are available under 37 CFR 1.136(a). Thus the Notice of Abandonment mailed November 26, 2004, was mailed prior to the maximum six month time period for reply permitted and is hereby withdrawn.

A review of the reply filed April 15, 2004, which occasioned the Office action of October 7, 2004, a Notice of Non-Responsive Amendment, shows that it is actually responsive to the previous Notice of Non-responsive Amendment, mailed March 15, 2004. A delay of six months from receipt of an amendment to determination that the amendment is non-responsive is inappropriate, especially when it is a second Notice. A review of claim 1, as originally filed shows it is to a method for extending life span of a subject by administering an inhibitor of histone deacetylase. New claim 33 is to a method of extending life span of an organism by administering an inhibitor of histone deacetylase to increase activity of a specific gene encoding a protein. Claim 33 is a more narrow version of claim 1 as is to the same invention. The Notice holding that the amendment presenting this claim is Non-responsive, mailed October 7, 2004, is in error and is hereby withdrawn.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.



Bruce M. Kisliuk
Director, Technology Center 1600